

Remarks

The Examiner has objected to claims 5, 15, 29 and 40 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicants have amended the base claims 1, 10, 27 and 35 upon which claims 5, 15, 19 and 40 depend respectively, to include all the limitations of the base claim and all the intervening claims. Thus, Applicants have amended independent claim 1, upon which claim 5 depended, to include all the limitations of base claim 1, intervening claim 3 and claim 5 to place claim 1 in condition for allowance. Claims 3 and 5 have been cancelled.

Because Applicants believe independent claim 1 is now in condition for allowance, claims 2, 6, 7, 8 and 9, which all depend on claim 1 and add additional limitations, should also be allowed.

Similarly, Applicants have amended independent claim 10, upon which claim 15 depended, to include all the limitations of base claim 10, intervening claim 14 and claim 15 to place claim 10 in condition for allowance. Claims 14 and 15 have been cancelled.

Because Applicant's believe independent claim 10 is now in condition for allowance, claims 11, 12, and 13, which all depend on claim 10 and add additional limitations, should also be allowed.

Applicants also amended independent claim 27, upon which claim 29 depends, to include the limitations of claims 29 to place claim 27 in condition for allowance. Claim 29 has thus been cancelled.

Because Applicant's believe independent claim 27 is now in condition for allowance, claims 28, 30, 31 and 32 which all depend on claim 27 and add additional limitations, should also be allowed.

Applicants amended independent claim 35, upon which claim 40 depended, to include all the limitations of base claim 35, intervening claim 39 and claim 40 to place claim 35 in condition for allowance. Claims 39 and 40 have thus been cancelled.

Because Applicant's believe independent claim 35 is now in condition for allowance, claims 36, 37 and 38, which all depend on claim 35 and add additional limitations, should also be allowed.

The Examiner has rejected claim 30 under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Accordingly, Applicants have amended the claim 30 to no longer positively recite a dispensing container.

Claims 16, 17, 19, 21-25 and 33 have all been rejected under 35 U.S.C. 103(a) as being unpatentable over the Henricksen patent. However, Henricksen does not disclose a tensioner or a back member comprising a slider and a back bracket moveable relative to each other for tensioning the retaining member during adjustment of the tensioner. The Examiner has indicated that previously submitted claim 29 contained allowable subject matter. Applicants believe that the elements of a back member comprising a slider and a back bracket moveable relative to each other which when moved adjust the tension in the retaining member were the limitations that made claim 29 allowable. These elements have now been added to amended independent claims 16, 21 and 33 and Applicants respectfully submit that by adding these limitations to the claims the claims are now in condition for allowance.

Because claim 16 is now allowable, claims 17, 19 and 20 which depend on claim 16 and which add limitations are also now in condition for allowance. Similarly because claim 21 is now allowable, claims 22, 25 and 26 which depend on claim 21 and which add limitations are also now in condition for allowance. Claims 23 and 24 are cancelled.

Because claim 33 is now in condition for allowance claim 34 which depends on claim 33 is also in condition for allowance.

The Examiner has rejected previously presented claims under 35 U.S.C. 102 (b) as being anticipated by US Pat. No. 5,167,392 to Henricksen and the Examiner has also rejected previously presented claims under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,663,068 to Huang. However, neither Henricksen or Huang disclose either a retaining member that loops around the product container or a multi-piece back member with a back bracket and slider that are movable relative to each other for causing tension in said retaining member. Instead Huang discloses a single piece mounting plate 11. Because it is a single piece, the mounting plate 11 in Huang does not have multiple components that can be moved or adjusted relative to each other in any way and by its movement create. Thus, Huang fails to disclose or suggest a back member made of multiple pieces that is adjustable in way to create tension in the retaining member. If not adjustable in any way then the back member cannot be adjusted to create tension in the retaining member when the product container is placed in the base.

Accordingly, Applicants submit new claims 41 and 42 which include the arrangement of a slider, back bracket and retaining member attached to the slide for adjusting the tension in the retaining member. Applicants believe this arrangement is not found in the prior art and is in accordance with what the Examiner has identified as allowable subject matter.

Further, Applicant submits that neither of these references should be used to reject any of the claims as obvious under 35 U.S.C. 103 as both the references relate to beverage holders that do not firmly hold the beverage container in place. In fact the entire purpose of the prior art beverage holders is to allow easy removal of the beverage container during drinking of the beverage. In contrast, one of the purposes

of Applicants' inventions is to have a device that firmly and securely holds the displayed product and prevent its easy removal or theft from the point of sale location when attached to the shelf. (See specification page 6 paragraphs 20 and page 10 paragraph 41).

Based on the foregoing reasons and remarks Applicants respectfully request allowance of the claims as amended.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Basile', is written over a horizontal line.

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